

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2000

To amend the Agricultural Act of 1949 to provide for the establishment of a multiple-tier price support program for milk to assist milk producers to receive an adequate income from their dairy operations and to support long-term conservation practices by milk producers, while assuring sufficient low-cost dairy products for nutrition assistance programs.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 10, 1995

Mr. SANDERS (for himself, Mr. McHALE, Mr. HINCHEY, Mr. DELLUMS, and Mr. FALCOMA) introduced the following bill; which was referred to the Committee on Agriculture

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## A BILL

To amend the Agricultural Act of 1949 to provide for the establishment of a multiple-tier price support program for milk to assist milk producers to receive an adequate income from their dairy operations and to support long-term conservation practices by milk producers, while assuring sufficient low-cost dairy products for nutrition assistance programs.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Dairy, Nutrition, and Conservation Act of 1995”.

4 (b) TABLE OF CONTENTS.—The table of contents for  
5 this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Producer referendum to recommend implementation of milk supply  
management and nutrition assistance provisions.

Sec. 3. National Milk Marketing Board.

Sec. 4. Alternative milk price support and inventory management program.

Sec. 5. Monitoring activities of National Milk Marketing Board.

Sec. 6. Financial assistance for environmental conservation compliance by milk  
producers.

Sec. 7. Producer export contracts.

6 **SEC. 2. PRODUCER REFERENDUM TO RECOMMEND IMPLE-**  
7 **MENTATION OF MILK SUPPLY MANAGEMENT**  
8 **AND NUTRITION ASSISTANCE PROVISIONS.**

9 (a) REFERENDUM.—Title II of the Agricultural Act  
10 of 1949 (7 U.S.C. 1446 et seq.) is amended by inserting  
11 after section 204 the following new section:

12 **“SEC. 204A. MILK PRODUCER REFERENDUM REGARDING**  
13 **IMPLEMENTATION OF ALTERNATIVE MILK**  
14 **PRICE SUPPORT AND INVENTORY MANAGE-**  
15 **MENT PROGRAM.**

16 “(a) REFERENDUM.—Not later than 30 days after  
17 the date of the enactment of the Dairy, Nutrition, and  
18 Conservation Act of 1995, the Secretary shall conduct a  
19 referendum to determine whether milk producers in the  
20 48 contiguous States favor the implementation of the al-  
21 ternative milk price support and inventory management

1 program under section 204C in lieu of applying the rate  
2 of price support (and required adjustments) specified in  
3 subsections (b) and (d) of section 204 and the excess pro-  
4 duction price reduction specified in subsection (g) of such  
5 section.

6 “(b) ELIGIBLE VOTERS.—The Secretary shall con-  
7 duct the referendum only among individual milk producers  
8 in the 48 contiguous States who have been producing milk  
9 during a representative period, as determined by the Sec-  
10 retary. The Secretary shall maintain a list of eligible vot-  
11 ers and make it available upon request. Only individual  
12 producers may cast ballots in the referendum. An organi-  
13 zation or other person representing milk producers, in-  
14 cluding a general farm organization, may not cast ballots  
15 in the referendum on behalf of milk producers.

16 “(c) CASTING BALLOTS.—The Secretary shall estab-  
17 lish the methods by which ballots may be cast in the ref-  
18 erendum, except that the referendum shall be conducted  
19 by secret ballot and bloc voting shall not be permitted.  
20 Such methods shall include casting ballots by mail (subject  
21 to appropriate safeguards) and in person with a represent-  
22 ative of the county or other office of the Consolidated  
23 Farm Service Agency.

24 “(d) IMPLEMENTATION REQUIRED.—If the Secretary  
25 determines that a simple majority of the milk producers

1 voting in the referendum favor the implementation of the  
2 alternative milk price support and inventory management  
3 program under section 204C, the Secretary (acting  
4 through the National Milk Marketing Board established  
5 by section 204B) shall carry out the provisions of such  
6 section, beginning with the first calendar year that begins  
7 after the date on which the referendum is completed. Sub-  
8 sections (b), (d), and (g) of section 204 shall not apply  
9 during and after that calendar year.”.

10 (b) CONFORMING AMENDMENTS.—Section 204 of the  
11 Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

12 (1) in subsection (a), by inserting before the pe-  
13 riod the following: “and section 204C, if that section  
14 is in effect”;

15 (2) in subsection (b), by striking “December  
16 31, 1996,” and inserting “the date on which the al-  
17 ternative milk price support and inventory manage-  
18 ment program under section 204C takes effect or  
19 December 31, 1996, whichever is earlier,”;

20 (3) in subsection (d), by adding at the end the  
21 following new paragraph:

22 “(6) EFFECT OF IMPLEMENTATION OF SECTION  
23 204C.—Upon the implementation of the alternative  
24 milk price support and inventory management pro-  
25 gram under section 204C, if required by section

1 204A(d), the support price adjustments required by  
2 this subsection and the minimum price specified in  
3 paragraph (4) shall not apply.”; and

4 (4) in subsection (g), by adding at the end the  
5 following new paragraph:

6 “(4) EFFECT OF IMPLEMENTATION OF SECTION  
7 204C.—Upon the implementation of the alternative  
8 milk price support and inventory management pro-  
9 gram under section 204C, if required by section  
10 204A(d), the support price reduction required by  
11 this subsection shall not apply.”.

12 **SEC. 3. NATIONAL MILK MARKETING BOARD.**

13 Title II of the Agricultural Act of 1949 (7 U.S.C.  
14 1446 et seq.) is amended by inserting after section 204A,  
15 as added by section 2, the following new section:

16 **“SEC. 204B. NATIONAL MILK MARKETING BOARD.**

17 “(a) ELECTION OF BOARD REQUIRED.—

18 “(1) ELECTION.—If the implementation of the  
19 alternative milk price support and inventory man-  
20 agement program under section 204C is approved in  
21 the referendum required by section 204A, the Sec-  
22 retary shall conduct an election for a National Milk  
23 Marketing Board to assist the Secretary in estab-  
24 lishing an adequate national supply and demand for  
25 milk under the alternative milk price support and in-

1        ventory management program under section 204C.  
2        To the extent practicable, the election shall be con-  
3        ducted not later than 60 days before the date on  
4        which the alternative milk price support and inven-  
5        tory management program takes effect pursuant to  
6        section 204A(d). If the election is not completed by  
7        that date, or the Board is not capable of participat-  
8        ing in the alternative milk price support and inven-  
9        tory management program by that date, the Sec-  
10       retary shall temporarily operate the program until  
11       the Board determines that it is ready to assume its  
12       duties under the program.

13       “(2) BOARD DEFINED.—For purposes of this  
14       section and section 204C, the term ‘Board’ means  
15       the National Milk Marketing Board elected under  
16       this section.

17       “(b) MEMBERSHIP.—The Board shall consist of 23  
18       members as follows:

19       “(1) Fourteen milk producers, two from each  
20       region specified in subsection (c), who shall be elect-  
21       ed by milk producers.

22       “(2) Seven representatives of consumers of milk  
23       and milk products, one from each region specified in  
24       subsection (c), who may not be milk producers, but  
25       who shall be elected by milk producers.

1           “(3) Two members appointed by the Secretary  
2           from among individuals who have a demonstrable ex-  
3           pertise in the area of milk production, processing, or  
4           marketing.

5           “(c) ELECTION PROCESS.—

6           “(1) CONDUCT OF ELECTIONS.—The Secretary  
7           shall conduct elections to select the members of the  
8           Board specified in paragraphs (1) and (2) of sub-  
9           section (b). A separate election shall be held in each  
10          of the seven geographic regions specified in para-  
11          graph (2) to elect the two milk producer members  
12          and one consumer member from each region. The  
13          initial elections may be conducted by the Secretary  
14          in conjunction with the referendum required under  
15          section 204A to permit the timely establishment of  
16          the Board before the date on which the alternative  
17          milk price support and inventory management pro-  
18          gram would take effect under section 204C.

19          “(2) BOARD REGIONS.—For purposes of elect-  
20          ing members for the Board, the 48 contiguous  
21          States shall be organized into seven geographic re-  
22          gions as follows:

23                 “(A) California, Oregon, and Washington.

1           “(B) Arizona, Arkansas, Colorado, Idaho,  
2           Kansas, Montana, Nevada, New Mexico, Okla-  
3           homa, Texas, Utah, and Wyoming.

4           “(C) Iowa, Minnesota, Missouri, Nebraska,  
5           North Dakota, and South Dakota.

6           “(D) Wisconsin and Illinois.

7           “(E) Alabama, Florida, Georgia, Ken-  
8           tucky, Louisiana, Mississippi, North Carolina,  
9           South Carolina, Tennessee, and Virginia.

10          “(F) Delaware, Indiana, Maryland, Michi-  
11          gan, New Jersey, Ohio, Pennsylvania, and West  
12          Virginia.

13          “(G) Connecticut, Maine, Massachusetts,  
14          New Hampshire, New York, Rhode Island, and  
15          Vermont.

16          “(3) PROCEDURE FOR ELECTION.—As soon as  
17          practicable after the date of the enactment of the  
18          Dairy, Nutrition, and Conservation Act of 1995, the  
19          Secretary shall conduct a broad-based publicity ef-  
20          fort about the election process and solicit the names  
21          of individuals to be included as candidates on the  
22          ballot for the election in each region. The names of  
23          proposed milk producer members may be submitted  
24          by milk producers in the region or by organizations,  
25          except that each nominee must be supported by at



1       least 25 individual milk producer signatures, and the  
2       nominee must be a milk producer who has sold milk  
3       in the past six months. The names of proposed  
4       consumer members may be submitted by such per-  
5       sons as the Secretary considers appropriate.

6           “(4) CONFLICT OF INTEREST.—The Secretary  
7       shall reject any nominee to an elected position who  
8       is directly involved in the marketing of dairy prod-  
9       ucts, since the election of such a nominee would cre-  
10      ate a conflict of interest.

11          “(5) VOTING BY PRODUCERS.—

12           “(A) ELIGIBLE VOTERS.—The Secretary  
13       shall conduct an election in each region to de-  
14       termine the members of the Board from that  
15       region. The election shall be conducted only  
16       among individual milk producers who have been  
17       producing milk during any six months of the  
18       previous year.

19           “(B) PROHIBITION ON BLOC VOTING.—  
20       Only individual milk producers may cast ballots  
21       in the election. An organization or other person  
22       representing milk producers, including a gen-  
23       eral farm organization, may not cast ballots in  
24       the election on behalf of milk producers.

1           “(C) CASTING BALLOTS.—The Secretary  
2           shall establish the methods by which ballots  
3           may be cast. Such methods shall include casting  
4           ballots by mail (subject to appropriate safe-  
5           guards) and in person with a representative of  
6           the county or other office of the Consolidated  
7           Farm Service Agency.

8           “(d) REGIONAL BOARD.—The three members elected  
9           to the Board from each region shall also serve as a Re-  
10          gional Milk Marketing Board for that region.

11          “(e) MEETINGS OF THE BOARD.—

12                 “(1) FIRST MEETING.—Within two weeks after  
13                 the completion of the first election of Board mem-  
14                 bers under subsection (d) in each region, the Board  
15                 shall convene for its initial meeting and elect offi-  
16                 cers.

17                 “(2) OTHER MEETINGS.—The Board shall meet  
18                 at the call of the chair, or as requested by the Sec-  
19                 retary, but at least once every three months. The  
20                 public shall be notified of meetings one month prior  
21                 to each meeting.

22          “(f) PROCEDURES OF THE BOARD.—

23                 “(1) QUORUM.—A quorum of the Board shall  
24                 be 12 members.

1           “(2) RULES OF PROCEDURE AND BYLAWS.—

2           The Board shall adopt written bylaws and rules of  
3           procedures to govern its operations.

4           “(3) EX OFFICIO REPRESENTATION.—The  
5           Board shall notify the Secretary in advance of each  
6           meeting of the Board. The Secretary, or a represent-  
7           ative of the Secretary, shall attend each meeting as  
8           a nonvoting ex officio member of the Board.

9           “(g) TERMS; COMPENSATION.—

10           “(1) FULL TERM.—Each member of the Board  
11           shall serve a four-year term, except that, for the ini-  
12           tial Board, the member elected under subsection  
13           (b)(1) from each region who received the fewer votes  
14           shall serve a two-year term. The consumer members  
15           shall be elected for a four-year term with an alter-  
16           nate nonvoting consumer member. The Secretary  
17           may remove for cause a member from the Board be-  
18           fore the expiration of the term of the member.

19           “(2) VACANCIES.—A vacancy on the Board  
20           shall be filled by Secretarial appointment with the  
21           term expiring at the next scheduled election. Re-  
22           gional boards shall hold regional elections to fill va-  
23           cancies.

24           “(3) TERM LIMITS.—A member of the Board  
25           may not serve on the Board for more than two con-

1       secutive full terms or a total of eight years, which-  
2       ever occurs first. However, a member of the Board  
3       subject to the preceding sentence shall become eligi-  
4       ble for reelection or reappointment to the Board  
5       upon the expiration of the four-year period begin-  
6       ning on the date the member became ineligible for  
7       the Board under such sentence.

8           “(3) REIMBURSEMENT FOR EXPENSES.—The  
9       members of the Board shall serve without compensa-  
10      tion, but shall be reimbursed for reasonable expenses  
11      incurred in performing their duties as members of  
12      the Board, including a per diem.

13      “(h) DUTIES.—

14           “(1) PARTICIPATION IN DAIRY PROGRAM.—The  
15      Board shall assist the Secretary in implementing,  
16      administering, and operating the alternative milk  
17      price support and inventory management program  
18      under section 204C. The program shall remain  
19      under the final authority and control of the Sec-  
20      retary.

21           “(2) MONITORING ACTUAL PRICE RECEIVED BY  
22      PRODUCERS.—The Board may monitor actual prices  
23      received by representative producers for milk pro-  
24      duced in the 48 contiguous States and marketed for  
25      domestic use in order to compare those prices with

1 the rate of price support for milk in effect for that  
2 month and dairy prices at the processor and retail  
3 levels. The Board shall publish and disseminate re-  
4 ports regarding the results of this monitoring.

5 “(i) POWERS.—The Board shall have such incidental  
6 powers consistent with the requirements of this section  
7 and section 204C as the Secretary may prescribe. Such  
8 powers shall include the power to hire such staff and incur  
9 such other administrative expenses as necessary to meet  
10 the responsibilities of the Board.

11 “(j) FUNDING AND BUDGETS.—

12 “(1) BOARD FUNDS; OPERATING ASSESS-  
13 MENT.—Consistent with the approved budget of the  
14 Board, funds of the Commodity Credit Corporation  
15 shall be available to pay for activities under this sec-  
16 tion and section 204C. In order to ensure adequate  
17 Commodity Credit Corporation funds to finance  
18 Board activities, all producers of milk produced in  
19 the continental United States and marketed for com-  
20 mercial use shall be assessed a National Milk Mar-  
21 keting Board operating fee, not to exceed 1.5 cents  
22 per hundredweight of milk produced.

23 “(2) BUDGETS AND OPERATING PLANS.—The  
24 Board shall submit to the Secretary its proposed an-  
25 nual budget and plan of operations for each calendar

1 year in which it operates. The budget and plan of  
2 operations shall be subject to the approval of the  
3 Secretary, and the Secretary may require such  
4 changes in the budget or plan of operations as the  
5 Secretary considers to be necessary. The Board may  
6 not enter into any obligations or expend any funds  
7 for a year, except as authorized in the budget for  
8 the year approved by the Secretary.

9 “(k) BOOKS AND RECORDS OF THE BOARD.—

10 “(1) RECORDKEEPING AND ACCOUNTING RE-  
11 QUIREMENTS.—The Board shall—

12 “(A) maintain such books and records,  
13 which shall be available to the Secretary for in-  
14 spection and audit, as the Secretary may pre-  
15 scribe;

16 “(B) prepare and submit to the Secretary  
17 such reports as the Secretary may prescribe;  
18 and

19 “(C) account for the receipt and disburse-  
20 ment of all funds entrusted to the Board.

21 “(2) ANNUAL INDEPENDENT AUDITS.—The  
22 Board shall cause its books and records to be au-  
23 dited by an independent auditor at the end of each  
24 calendar year and a report of such audit to be sub-

1       mitted to the Secretary. The Secretary shall make  
2       such report available to the public upon request.

3           “(3) ACCESS BY COMPTROLLER GENERAL.—  
4       The Comptroller General and the duly authorized  
5       representatives of the Comptroller General shall  
6       have access to and the right to examine all books,  
7       documents, papers, records, or other recorded infor-  
8       mation within the possession or control of the  
9       Board.”.

10 **SEC. 4. ALTERNATIVE MILK PRICE SUPPORT AND INVEN-**  
11 **TORY MANAGEMENT PROGRAM.**

12       Title II of the Agricultural Act of 1949 (7 U.S.C.  
13 1446 et seq.) is amended by inserting after section 204B,  
14 as added by section 3, the following new section:

15 **“SEC. 204C. ALTERNATIVE MILK PRICE SUPPORT AND IN-**  
16 **VENTORY MANAGEMENT PROGRAM.**

17       “(a) PRICE SUPPORT RATE TO REFLECT COST OF  
18 PRODUCTION.—

19           “(1) ANNUAL ADJUSTMENT.—The price of milk  
20 shall be supported at a rate established by the Sec-  
21 retary and adjusted annually to reflect the cost of  
22 production for milk producers.

23           “(2) DETERMINATION OF COST OF PRODUC-  
24 TION.—To determine the cost of milk production on

1 a per hundredweight basis, the Secretary shall con-  
2 sider the following:

3 “(A) The latest cash cost of production (as  
4 estimated by the Secretary), adjusted annually  
5 by the wholesale price index.

6 “(B) Domestic market/nutrition assistance  
7 adjustments equal to 7.5 percent of adjusted  
8 cash cost of production.

9 “(C) Return on investment established at  
10 8 percent of 70 percent of total farm assets (as  
11 estimated by the Secretary) figured on a per  
12 hundredweight basis.

13 “(D) Cost of conservation and environ-  
14 mental requirements and improvements as de-  
15 termined by the Secretary on a per hundred-  
16 weight basis, prorated over a 10-year period.

17 “(3) BASIC FORMULA PRICE AND CLASS DIF-  
18 FERENTIALS.—

19 “(A) CALCULATION.—The basic formula  
20 price shall be equal to the sum of subpara-  
21 graphs (A), (B), (C) of paragraph (2). If the  
22 sum of such subparagraphs is at least \$14 per  
23 hundredweight, then the Secretary may also  
24 factor in the cost of conservation improvements



1 determined under subparagraph (D) of para-  
2 graph (2).

3 “(B) CLASS III.—Milk used for products of  
4 milk listed as Class III products shall receive a  
5 price not lower than the basic formula price per  
6 hundredweight.

7 “(C) CLASS II.—Milk used for products of  
8 milk listed as Class II products shall receive a  
9 price equal to Class III products plus a dif-  
10 ferential of 30 cents per hundredweight.

11 “(D) CLASS I.—Milk used for products of  
12 milk listed as Class I products shall receive a  
13 price equal to—

14 “(i) the basic formula price; plus

15 “(ii) an amount determined by a for-  
16 mula based on a nine-hour day (milk relat-  
17 ed labor) multiplied by 365 days and gross  
18 hourly earnings MFR Labor (based on cal-  
19 culations of the Bureau of Labor Statis-  
20 tics) and divided by 1,500,000 pounds  
21 (which is the equivalent of 15,000 hun-  
22 dredweight, the estimated 1995 average  
23 production per farm).

24 “(E) APPLICATION.—The Class I price dif-  
25 ferential determined under subparagraph (D)

1 shall be used in all Federal and State milk mar-  
2 keting orders in operation in the 48 contiguous  
3 States.

4 “(b) MILK PRODUCTION AND CONSUMPTION ESTI-  
5 MATE.—

6 “(1) ANNUAL ESTIMATE.—Not later than No-  
7 vember 20 of each calendar year, the Secretary, in  
8 consultation with the Board, shall publish in the  
9 Federal Register an estimate of—

10 “(A) the amount of milk and the products  
11 of milk in pounds (on a milk equivalent, total  
12 milk solids basis) necessary to satisfy domestic  
13 consumption, government domestic assistance  
14 programs, of milk during the following calendar  
15 year and maintain a reasonable milk reserve;

16 “(B) the amount of milk and the products  
17 of milk in pounds (on a milk equivalent, total  
18 milk solids basis) to be produced in the 48 con-  
19 tiguous States during the following year; and

20 “(C) the amount of milk and the products  
21 of milk in pounds (on a milk equivalent, total  
22 milk solids basis) that the Commodity Credit  
23 Corporation would purchase during the follow-  
24 ing calendar year under this section or section  
25 204.

1           “(2) RULES FOR ESTIMATE.—When making an  
2       estimate under this subsection, the Secretary shall—

3           “(A) consider any existing inventory man-  
4       agement programs to balance domestic supply  
5       and demand; and

6           “(B) consider conditions affecting import  
7       projections of all dairy products.

8           “(3) DEFINITION.—For purposes of this sec-  
9       tion, the term ‘milk equivalent, total milk solids  
10      basis’ has the meaning given that term in section  
11      204(d)(5)(A).

12          “(c) MILK MARKETING ALLOCATION FACTOR.—On  
13      the basis of the estimates prepared under subsection  
14      (b)(1) for a calendar year, the Board shall develop a milk  
15      marketing allocation factor for the purpose of determining  
16      milk producer bases for that year and submit to the Sec-  
17      retary. The milk marketing allocation factor shall be equal  
18      to the ratio of subparagraphs (A) and (C) of subsection  
19      (b)(1) to subparagraph (B) of such subsection.

20          “(d) MILK MARKETING HISTORIES.—

21           “(1) PRODUCER TO INCLUDE CERTAIN MILK  
22      PRODUCERS USING ANOTHER’S LAND.—For pur-  
23      poses of this section, the term ‘producer’ includes a  
24      person who is actively engaged in a dairy operation  
25      on a farm, as a full-time occupation (as evidenced by

1 the person's contribution of active personal labor  
2 and dairy cows to the operation), although the per-  
3 son uses the land, equipment, or facilities of another  
4 person.

5 “(2) ONE- OR FIVE-YEAR AVERAGE.—Upon im-  
6 plementation of the Dairy, Nutrition, and Conserva-  
7 tion Act of 1995, the Secretary shall assign to each  
8 producer of milk a milk marketing history equal (at  
9 the producer's option) to—

10 “(A) the quantity of milk marketed by the  
11 producer during the calendar year preceding the  
12 enactment of such Act; or

13 “(B) the average quantity of milk mar-  
14 keted by the producer during the five calendar  
15 years preceding the enactment of such Act, ex-  
16 cluding the year in which the largest quantity  
17 was marketed and the year in which the small-  
18 est quantity was marketed.

19 “(3) AMOUNTS PRODUCED.—For purposes of  
20 determining the milk marketing history of a pro-  
21 ducer under paragraph (2), all milk marketed by the  
22 producer from all farms of the producer for the cal-  
23 endar years involved shall be counted, including milk  
24 subject to a reduction of the price received under  
25 this section or section 204.

1           “(4) USE OF COUNTY COMMITTEES.—Subject  
2       to paragraph (5), county and other committees es-  
3       tablished under section 8(b)(5) of the Soil Conserva-  
4       tion and Domestic Allotment Act (16 U.S.C.  
5       590h(b)(5)) shall be responsible for local administra-  
6       tion of the alternative milk price support and inven-  
7       tory management programs.

8           “(5) COUNTY DAIRY COMMITTEE.—

9           “(A) ELECTION.—Milk producers in each  
10       county shall elect a separate dairy committee  
11       who are active milk producers. This committee  
12       shall be responsible for decisions concerning  
13       market history allocation and appeals. Counties  
14       that have fewer than 50 active milk producers  
15       shall join with other counties in order to com-  
16       pose an adequate dairy committee. This com-  
17       mittee shall serve milk producers in the com-  
18       bined counties and adopt a single Consolidated  
19       Farm Service Agency office to perform their  
20       duties. Each committee shall consist of five  
21       milk producers with a one-year term of office.

22           “(B) COMPENSATION.—The members of a  
23       dairy committee shall be entitled to per diem  
24       and mileage reimbursement in the same manner

1 as committees referred to in paragraph (4), and  
2 subject to the same hourly limitations.

3 “(C) FUNDING.—The Board shall make  
4 funds available to an appropriate official of the  
5 Consolidated Farm Service Agency to finance  
6 the cost of the dairy committees.

7 “(6) NONTRANSFERABILITY; EXCEPTIONS.—A  
8 producer’s marketing history may not be transferred  
9 (by sale, lease, gift, devise, or other method) except  
10 as follows:

11 “(A) There is no restriction on the ability  
12 of a producer who is an individual to transfer  
13 the marketing history of the producer to an im-  
14 mediate family member (such as the spouse,  
15 parent, brother or sister, or child of the pro-  
16 ducer or a person to whom the producer stands  
17 in loco parentis) for use on the same farm.

18 “(B) There is no restriction on the ability  
19 of a producer to sell, lease, or otherwise trans-  
20 fer the Class I base of the producer for a farm  
21 in areas in which Class I bases have been estab-  
22 lished.

23 “(C) The relevant dairy committee shall  
24 permit a producer to reestablish the marketing  
25 history of a farm owned or leased by the pro-

1           ducer at another farm owned or leased by the  
2           same producer.

3           “(D) The relevant dairy committee may  
4           approve the transfer of the marketing history of  
5           a producer (for use on the same farm or an-  
6           other farm) to prevent extreme hardship.

7           “(E) Any producer with a marketing his-  
8           tory shall be allowed to relocate the marketing  
9           history to another location in the 48 contiguous  
10          States upon notification of the dairy committee  
11          for the new location.

12          “(7) SET-ASIDE OF UNUSED MARKETING HIS-  
13          TORY FOR DAIRY COMMITTEES.—Subject to transfer  
14          options specified in paragraph (6), if a producer in  
15          a county receives a milk marketing history under  
16          this subsection and ceases the production of milk  
17          during any subsequent calendar year, the portion of  
18          that milk marketing history remaining unused shall  
19          be available to the dairy committee in which the pro-  
20          ducer is located for transfer among eligible produc-  
21          ers on an equitable basis in accordance with this  
22          paragraph. The dairy committee shall transfer any  
23          milk marketing history available to the committee  
24          under this paragraph to persons (excluding nonfarm

1 corporations and investors) in the following order of  
2 priority:

3 “(A) New milk producers described in  
4 paragraph (8).

5 “(B) Producers in the county whose milk  
6 marketing history for the calendar year involved  
7 is less than 1,000,000 pounds for each pro-  
8 ducer.

9 “(C) Milk producers who have been in op-  
10 eration for less than 5 years.

11 “(D) Other producers in the county.

12 “(E) Other producers in the region in  
13 which the county is located, to be recommended  
14 by the relevant regional milk marketing board  
15 established under section 204B(d).

16 “(F) Other regions of the Continental  
17 United States.

18 “(8) NEW OR REENTRY PRODUCERS.—The rel-  
19 evant dairy committee shall assign to a new milk  
20 producer a milk marketing history at a reasonable  
21 level taking into consideration the milk marketing  
22 histories of similarly situated producers in the coun-  
23 ty and the availability of excess milk marketing his-  
24 tories for distribution by the committee under para-  
25 graph (7). The term ‘new milk producer’ means a



1 person who does not have a milk marketing history  
2 and is purchasing production units (cows or a farm)  
3 or who previously relinquished the producer's milk  
4 marketing history.

5 “(9) SCHEME OR DEVICE.—If the Secretary  
6 makes a final determination that a producer has  
7 adopted a scheme or device to inflate the milk mar-  
8 keting history of the producer or to evade reductions  
9 in price required under this section or section 204,  
10 the producer shall be ineligible for two calendar  
11 years to receive any marketing history under this  
12 subsection or to receive any domestic production  
13 base under subsection (e). A producer shall have the  
14 right to appeal an adverse decision under this para-  
15 graph in the manner provided by subtitle H of title  
16 II of the Federal Crop Insurance Reform and De-  
17 partment of Agriculture Reorganization Act of 1994  
18 (7 U.S.C. 6991 et seq.).

19 “(e) DETERMINATION OF DOMESTIC PRODUCTION  
20 BASE.—

21 “(1) NOTIFICATION.—Before January 1 of each  
22 calendar year, the Secretary, in consultation with  
23 the Board, shall notify each milk producer in the 48  
24 contiguous States of the domestic production base of  
25 the producer for that year.

1           “(2) MARKETING HISTORY EQUAL TO OR  
2           UNDER 1,000,000 POUNDS.—If the milk marketing  
3           history determined under subsection (d) for a milk  
4           producer does not exceed 1,000,000 pounds, the do-  
5           mestic production base for the producer shall be  
6           equal to the product of—

7                   “(A) the milk marketing history of the  
8                   producer; and

9                   “(B) the milk marketing allocation factor  
10                  determined for that year under subsection (c)  
11                  or one, whichever is greater.

12           “(3) MARKETING HISTORY IN EXCESS OF  
13           1,000,000 POUNDS.—If the milk marketing history  
14           determined under subsection (d) for a milk producer  
15           exceeds 1,000,000 pounds, the domestic production  
16           base for the producer shall be equal to the sum of—

17                   “(A) 1,000,000 pounds; and

18                   “(B) the product of—

19                           “(i) the milk marketing history of the  
20                           producer (reduced by 1,000,000 pounds);  
21                           and

22                           “(ii) the milk marketing allocation  
23                           factor determined for that year under sub-  
24                           section (c).

1           “(4) REDUCTION FOR DISUSE.—Any producer  
2           who produces less than the producer’s domestic pro-  
3           duction base for two consecutive years (except in the  
4           case of a disaster) shall have the producer’s domes-  
5           tic marketing base reduced to an amount equal to  
6           the average of the two lower years. The amount of  
7           base reduction shall then be reallocated by the rel-  
8           evant dairy committee.

9           “(f) DESIGNATION OF NUTRITION ASSISTANCE  
10          BASE.—

11           “(1) PURPOSE OF BASE.—To assure adequate  
12           quantities of low-cost milk and milk products for the  
13           Commodity Credit Corporation for distribution  
14           through nutrition assistance programs, the Sec-  
15           retary, in consultation with the Board, shall assign  
16           to each milk producer a nutrition assistance base for  
17           each calendar year. The nutrition assistance base  
18           shall be part of the domestic production base of the  
19           producer. The Commodity Credit Corporation shall  
20           offer to purchase from each purchaser, at the re-  
21           duced price specified in subsection (g)(1), a quantity  
22           of milk corresponding to the nutrition assistance  
23           base of the producer.

24           “(2) DETERMINATION.—The nutrition assist-  
25           ance base for a producer shall be equal to not more

1       than five percent of the domestic production base of  
2       the producer under subsection (e).

3           “(3) NOTIFICATION.—The notification required  
4       to be provided to milk producers under subsection  
5       (e)(1) for each calendar year shall also include the  
6       nutrition assistance base for the producers for that  
7       year.

8           “(g) DAIRY NUTRITION ASSISTANCE PRICE REDUC-  
9       TION.—

10          “(1) PRICE REDUCTION.—All milk producers in  
11       the 48 contiguous States shall receive a reduced  
12       price for that percentage of their domestic produc-  
13       tion base that is determined by the Secretary, in  
14       consultation with the Board, to be required to fulfill  
15       the needs of domestic nutrition assistance programs.  
16       The amount of reduction under this subsection shall  
17       be equal to the product of—

18               “(A) 70 percent of the rate of price sup-  
19               port for milk per hundredweight in effect for  
20               that calendar year for the class of milk in-  
21               volved; and

22               “(B) the quantity of milk (in hundred-  
23               weight) so marketed.

1           “(2) DURATION.—These reductions shall be  
2           made on a monthly basis until the producer’s total  
3           nutrition assistance base has been fulfilled.

4           “(h) EXCESS PRODUCTION.—

5           “(1) USE AS EXPORTS.—If a milk producer in  
6           the 48 contiguous States produces milk in excess of  
7           the domestic production base of the producer, the  
8           producer may dispose of such excess production only  
9           on the export market as provided in section 7.

10           “(2) PENALTIES.—If any person fails to comply  
11           with the requirements of paragraph (1) regarding  
12           the disposal of excess production, the person shall be  
13           liable for a civil penalty up to an amount determined  
14           by multiplying—

15                   “(A) the quantity of milk involved in the  
16                   violation; by

17                   “(B) 80 percent of the rate of price sup-  
18                   port for milk per hundredweight in effect for  
19                   that calendar year for the class of milk involved  
20                   in the violation.

21           “(3) ENFORCEMENT.—The Secretary may en-  
22           force paragraph (2) in the courts of the United  
23           States.

24           “(4) PRODUCT AND PENALTY DISTRIBUTION.—

1           “(A) USE OF ACQUIRED MILK.—Products  
2           of milk purchased by the Commodity Credit  
3           Corporation under this subsection shall be used  
4           for United States foreign food assistance pro-  
5           grams.

6           “(B) USE OF PAYMENTS.—Penalty pay-  
7           ments received by the Commodity Credit Cor-  
8           poration under this subsection shall be used to  
9           help fund the Dairy Export Incentive Pro-  
10          gram.”.

11 **SEC. 5. MONITORING ACTIVITIES OF NATIONAL MILK MAR-**  
12 **KETING BOARD.**

13          (a) MONITORING ACTIVITIES.—The National Milk  
14 Marketing Board established under section 204B of the  
15 Agricultural Act of 1949 shall continuously monitor—

16           (1) the relationship between the price received  
17           by milk producers for sales of milk, the profits re-  
18           ceived by processors of milk and milk products, and  
19           the prices paid by consumers for milk and milk  
20           products; and

21           (2) the actual need of nutrition assistance pro-  
22           grams of the United States for milk and milk prod-  
23           ucts.

1 (b) REPORTING.—Not less than twice annually, the  
2 Board shall submit to Congress the results of its monitor-  
3 ing activities under subsection (a).

4 **SEC. 6. FINANCIAL ASSISTANCE FOR ENVIRONMENTAL**  
5 **CONSERVATION COMPLIANCE BY MILK PRO-**  
6 **DUCERS.**

7 (a) FUNDS FOR ENVIRONMENTAL CONSERVATION  
8 COMPLIANCE.—To encourage environmentally sound con-  
9 servation practices by milk producers in the 48 contiguous  
10 States, the Secretary of Agriculture shall determine the  
11 amount of money, on a per hundredweight of milk basis  
12 as provided in section 204C(a)(2)(D) of the Dairy, Nutri-  
13 tion, and Conservation Act of 1995, that would cover the  
14 cost of environmentally sound conservation practices by  
15 such milk producers mandated by Federal, State, or local  
16 laws.

17 (b) AVAILABILITY.—To the extent funds are available  
18 under subsection (d) to carry out this section, such funds  
19 shall be provided to milk producers on an annual basis,  
20 subject to Consolidated Farm Service Agency committee  
21 approval. Amounts provided under this subsection shall be  
22 in addition to any Federal cost share payments made to  
23 milk producers under any other law.

24 (c) AMOUNT OF PAYMENTS.—State and county Con-  
25 solidated Farm Service Agency committees shall deter-

1 mine which farm practices for which payments are avail-  
2 able are applicable to each milk producer based on the  
3 producer's farm plan and other factors. Payments to each  
4 milk producer shall be based on the economic cost of ob-  
5 taining and maintaining compliance and the number of  
6 programs in which the producer participates.

7 (d) DEDUCTION.—The amount of money involved  
8 shall be considered an environmental conservation compli-  
9 ance fee deducted from the Federal or State order pool  
10 prior to the computation of the Federal order price. These  
11 deductions shall be made and held in escrow by the State  
12 Consolidated Farm Service Agency director in the State  
13 of the producer's residence until compliance payments are  
14 made. In the case of nonregulated areas, provisions shall  
15 be made for environmental conservation compliance fees  
16 to be deducted by the State Regulatory Commission in-  
17 volved or the State Commissioner of Agriculture.

18 (e) ENVIRONMENTAL CONSERVATION COMPLIANCE  
19 PROGRAMS.—Environmental conservation compliance pro-  
20 grams shall include at least the following:

- 21 (1) Manure management systems and  
22 composting systems.
- 23 (2) Waste water management.
- 24 (3) Wetland conservation practices.
- 25 (4) Pesticide and herbicide alternatives.



1           (5) Rotational grazing.

2           (6) Green strips.

3   **SEC. 7. PRODUCER EXPORT CONTRACTS.**

4       (a) EXPORT CONTRACTS.—Any milk producer in the  
5 48 contiguous States shall be allowed to contract directly  
6 (or indirectly through another person) any volume of milk  
7 in hundredweights or products of milk at a predetermined  
8 price agreed to by all parties involved for the sole purpose  
9 of export out of the United States.

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HR 2000 IH——2

HR 2000 IH——3